

SC1405.AP5. APPENDIX 5 OF SUBCHAPTER 1405

SEVERANCE PAY

- References: (a) Title 5, Code of Federal Regulations, Part 550, "Pay Administration"  
(b) Section 8347 of title 5, United States Code, "Administration; Regulations"  
(c) Section 8461 of title 5, United States Code, "Authority of the Office of Personnel Management"  
(d) Chapter 43 of title 38, United States Code, "Veterans Benefits"  
(e) Section 5595 of title 5, United States Code, "Severance Pay"

SC1405.AP5.1. ELIGIBLE EMPLOYEES

Regular employees who have completed at least 12 months of continuous creditable service (see Section SC1405.AP5.4., below) with one or more DoD nonappropriated fund instrumentalities (NAFIs) are eligible for severance pay. The continuous service qualifying the employee for severance pay must have occurred within the 12 months preceding the effective date of the business-based action (BBA).

SC1405.AP5.2. CONDITIONS UNDER WHICH ELIGIBLE EMPLOYEES RECEIVE SEVERANCE PAY

SC1405.AP5.2.1. An eligible employee shall receive severance pay when, as a result of a BBA:

SC1405.AP5.2.1.1. The employee is separated. An employee who resigns following receipt of a specific written notice of separation due to BBA or a general written notice that announces that all positions will be abolished is considered to have been involuntarily separated.

SC1405.AP5.2.1.2. The employee's basic pay is reduced, and the employee resigns instead of accepting the reduction.

SC1405.AP5.2.1.3. The employee's employment category is involuntarily changed from Regular Full-Time to Regular Part-Time, or from Regular to Flexible, and the employee resigns instead of accepting the change. Components have discretion to establish a policy whereby employees involuntarily changed from Regular to Flexible may be paid severance pay without resigning.

SC1405.AP5.2.1.4. The employee is furloughed for more than 60 consecutive days and resigns in lieu of accepting the furlough.

### SC1405.AP5.3. EXCLUSIONS

Otherwise eligible employees shall not receive NAF severance pay if they:

SC1405.AP5.3.1. Are employed, without a break in service of more than 3 calendar days after separation, in another DoD NAF Regular position, or a DoD appropriated fund (APF) position, without a time limit on the length of the appointment.

**Note:** DoD NAF employees who move to DoD APF positions without a break in service of more than 3 days are eligible for portability of benefits under Pub. L. 101-508, as amended (reference (a)). Under 5 CFR 550.708 (reference (b)), NAF service is creditable for computing an employee's APF severance pay if the employee is later separated from an APF position under conditions entitling the employee to APF severance pay. Section SC1405.AP5.7., below, addresses entitlement to APF severance pay for certain NAF employees, based on a previous involuntary move from a DoD APF position to a DoD NAF position.

SC1405.AP5.3.2. Have refused an offer of employment in any DoD NAFI that would not result in a rate of basic pay that is lower than the rate of basic pay received immediately before the BBA, or a loss of employment category (i.e., from Regular Full-Time to Regular Part-Time or from Regular to Flexible). Offers must be in the same commuting area, unless the employee is covered by an agreement in which mobility is a condition of employment.

SC1405.AP5.3.3. Are entitled to an immediate annuity that is not reduced because of the employee's age at the time of retirement. This exclusion covers an annuity from a NAF retirement plan, or from a civil service retirement plan in which the employee elected to remain following movement between employment systems under 5 U.S.C., 8347(q) (reference (b)) and 8461(n) (reference (c)).

SC1405.AP5.3.4. Are receiving payments from the Department of Labor's Office of Workers Compensation Programs for a job-related injury.

#### SC1405.AP5.4. DETERMINING CREDITABLE SERVICE

SC1405.AP5.4.1. The following service is creditable for purposes of NAF severance pay:

SC1405.AP5.4.1.1. Service in a pay status as a Regular employee in one or more DoD NAFIs;

SC1405.AP5.4.1.2. Military service that interrupted creditable service, as prescribed in Chapter 43 of 38 U.S.C. (reference (d)); and

SC1405.AP5.4.1.3. Service in a continuing (i.e., without a time limit on the length of the appointment) appropriated fund position, if the employee moved from a DoD APF position to a DoD NAF position on or after January 1, 1987, without a break in service of more than 3 calendar days.

SC1405.AP5.4.2. The following service is not creditable for purposes of NAF severance pay:

SC1405.AP5.4.2.1. Service upon which a NAF or civil service annuity is based, if the annuity began before the date of the BBA;

SC1405.AP5.4.2.2. Periods of service for which NAF or APF severance pay was previously granted; and

SC1405.AP5.4.2.3. Service used to determine an employee's APF severance pay entitlement under the provisions of 5 U.S.C. 5595(h) (reference (e)) (see Section SC1405.AP5.5., below).

#### SC1405.AP5.5. COMPUTATION OF SEVERANCE PAY

NAF Components shall establish severance pay calculation formulas. Formulas may be more generous for employees for whom unlimited mobility has been made a condition of employment, and for employees separated because of base realignment and closure. Calculation formulas shall be established within the following limits:

SC1405.AP5.5.1. Minimum. One week of basic pay for each full year of creditable service. Components may give prorated credit for service of less than 1 year. The amount of severance pay shall be based on the number of hours the employee is regularly scheduled to work during the week, averaged over a period not to exceed the preceding 12 months, and at the basic pay rate received immediately before separation. Components may place a cap on the maximum number of weeks paid under this option; however, the cap may not be set at less than 4 weeks of basic pay.

SC1405.AP5.5.2. Maximum. A NAF employee shall not be paid severance pay greater than the amount calculated using the severance pay formula of 5 U.S.C. 5595(c) (reference (e)).

#### SC1405.AP5.6. PAYMENTS

NAF Components may pay severance pay on a bi-weekly basis or in a lump sum. Personnel action documents shall reflect the amount paid and the creditable service on which it was based, to prevent overpayment or duplicate credit for service.

#### SC1405.AP5.7. LIMITATION ON PAYMENT OF APPROPRIATED FUND SEVERANCE PAYMENTS TO CERTAIN EMPLOYEES MOVING TO NAF POSITIONS

SC1405.AP5.7.1. Under 5 U.S.C. 5595(h) (reference (e)), DoD APF employees may not receive APF severance pay upon movement to DoD NAF positions without a break in service (i.e., no more than 3 calendar days). The law provides that the original APF severance pay entitlement will be reinstated if the employee is subsequently involuntarily separated from NAF employment. The employee will be advised at the time of move and an annotation placed in the Official Personnel Folder.

SC1405.AP5.7.2. When an employee who is entitled to resumption of APF severance pay under 5 U.S.C. 5595(h) (reference (e)) is involuntarily separated from a NAF position, the servicing NAF civilian personnel office or human resources office will inform the employee of his potential entitlement and notify the employee's previous APF employer (or the successor in cases of regionalization, consolidation, or reorganization). This notification should include documentation of the BBA resulting in the involuntary separation from NAF. The notice should also include any NAF severance pay paid at the time of separation from NAF and the period of service for

which the severance pay was computed. This information will help ensure that the employee is not inadvertently paid severance pay from both APF and NAF for the same service. The intent of the law and this DoD NAF policy is that eligible employees will receive APF severance pay for creditable APF service, and NAF severance pay for creditable NAF service.